

**Deposition Designations for:  
ROBERT L. GRAHAM  
September 5, 1997**

**Deposition Designation Key**

**Arrowood = Arrowood Indem. Co.  
f/k/a Royal Indem. Co. (Light Green)**

**BNSF = BNSF Railway Co. (Pink)**

**Certain Plan Objectors "CPO" = Government Employees Insurance Co.; Republic Insurance Co. n/k/a Starr Indemnity and Liability Co.; OneBeacon America Insurance Co.; Seaton Insurance Co.; Fireman's Fund Insurance Co.; Allianz S.p.A. f/k/a Riunione Adriatica Di Sicurtà; and Allianz SE f/k/a Allianz Aktiengesellschaft; Maryland Casualty Co.; Zurich Insurance Co.; and Zurich International (Bermuda) Ltd.; Continental Casualty Co. and Continental Insurance Co. and related subsidiaries and affiliates; Federal Insurance Co.; and AXA Belgium as successor to Royal Belge SA (Orange)**

**CNA = Continental Cas. Co & Continental Ins. Co. (Red)**

**FFIC = Fireman Funds Ins. Co. (Green)  
FFIC SC = Fireman Funds Ins. Co. "Surety Claims" (Green)**

**GR = Government Employees Ins. Co.; Republic Ins. Co. n/k/a Starr Indemnity and Liability Co.**

**Libby = Libby Claimants (Black)**

**OBS = OneBeacon America Ins. Co. and Seaton Ins. Co. (Brown)**

**PP = Plan Proponents (Blue)**

**Montana = State of Montana (Magenta)**

**Travelers = Travelers Cas. and Surety Cos. (Purple)**

**UCC & BLG = Unsecured Creditors' Committee & Bank Lenders Group (Lavender)**

**AFNE = Assume Fact Not in  
Evidence**

**AO = Attorney Objection**

**BE = Best Evidence**

**Cum. = Cumulative**

**Ctr = Counter Designation**

**Ctr-Ctr = Counter-Counter**

**ET = Expert Testimony**

**F = Foundation**

**408 = Violation of FRE 408**

**H = Hearsay**

**IH - Incomplete Hypothetical**

**L = Leading**

**LA = Legal Argument**

**LC = Legal Conclusion**

**LPK - Lacks Personal Knowledge**

**LO = Seeking Legal Opinion**

**NT = Not Testimony**

**Obj: = Objection**

**R = Relevance**

**S = Speculative**

**UP = Unfairly Prejudicial under Rule 403**

**V = Vague**

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1 IN THE DISTRICT COURT OF THE NINETEENTH  
2 JUDICIAL DISTRICT FOR THE STATE OF MONTANA  
3 IN AND FOR THE COUNTY OF LINCOLN  
4 CAUSE NO. DV-97-50

5 ROBERT L. GRAHAM and CAROL A. )  
6 GRAHAM, husband and wife, )  
7 Plaintiffs, )  
8 vs )  
9 W.R. GRACE & CO.- CONN, a )  
10 Connecticut corporation, and )  
11 DOES I-IV, )  
12 Defendants. )  
13

14 VIDEO DEPOSITION  
15 OF  
16 ROBERT L. GRAHAM  
17 (On behalf of the Plaintiff)

18  
19 Held at the Lincoln County Courthouse  
20 512 California Avenue  
21 Libby, Montana  
22 Friday, September 5, 1997  
23 8:55 a.m.

24  
25 Reported by Debra M. Hedman, RPR, RMR and Notary  
Public for the State of Montana, Flathead County.

HEDMAN, ASA & GILMAN REPORTING - 752-5751  
P. O. BOX 394 -- KALISPELL, MONTANA

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1 A Oh, gee, just in and out, like, for two  
2 weeks and he'd be home for a month. And he -- They  
3 gave him Penicillin and this proved to work against  
4 him because it built up in his body and he had no  
5 anti -- no anti bodies to fight the diseases. So he  
6 was in and out of the hospital. And we had him in  
7 Betty Bacharach home at the -- I don't recall the  
8 place, but it was --

9 Q Well, anyway, so things worked out in  
10 Montana pretty well?

11 A Yes.

12 Q And have you been in Libby ever since?

13 A Yes, we have.

Libby

14 Q How long did you work for W.R. Grace?

15 A Twenty-seven and a half years.

16 Q So that's 1962 up to what year?

17 A 1990.

18 Q And are you married?

19 A Yes, I am.

20 Q Who to?

21 A Carol.

22 Q How long?

23 A Forty-four years.

24 Q And do you have children?

25 A Yes, five.

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1 shop. Sometimes they repair rollovers, or about a  
2 year and a half ago they built a fire engine. That  
3 type of work. It's mostly aluminum.

4 Q And Kim, where does she live?

5 A She lives with us at our home.

6 Q Uh-huh. And is she employed?

7 A No, she isn't.

8 Q Does she have a chemical imbalance or  
9 something?

10 A Yes, she does.

11 Q Then this June, did you make a trip to  
12 Missouri?

13 A Yes, we did.

14 Q Why was that?

15 A To visit our kids. It was sort of a  
16 family reunion.

Libby

17 Q And at that time had you been diagnosed  
18 with a disease?

19 A Yes, I had been diagnosed in March, I  
20 believe.

21 Q With what?

22 A That I had mesothelioma.

23 Q What's your understanding of what that  
24 is?

25 A I understand that it's a cancer related --

Libby [ 1 or an asbestos-related cancer.

2 Q And so did the reunion have anything to do  
3 with the fact that you had been diagnosed?

4 A Well, it was a good time to go and then I  
5 wasn't sure, you know, of my treatment or when I  
6 would be able to do that again.

7 Q How many of the kids came to the reunion?

8 A Four.

9 Q And how many grandkids do you have?

10 A Three.

11 Q Three. How long did the reunion last?

12 A Well, it was only for a couple days, but  
13 we were there for 12 days. And we went to Silver  
14 Dollar City and Branson and different places we like  
15 to go. Every day we did something.

16 Q Are you on any medications right now?

17 A Yes, I am.

18 Q Can you say what they are?

19 A I have a nebulizer, which is Ambutrol,  
20 and --

21 Q What is the nebulizer for?

22 A It's to open up my lungs when I start  
23 wheezing and when I have trouble getting my breath.

24 Q Okay.

25 A And I have these little -- they call them

1 showed that cancer was starting to move rapidly and  
2 it was after that that --

Libby

3 Q So when did you have your first  
4 chemotherapy?

5 A July 8th, I believe.

6 Q This year, '97?

7 A Yes.

8 Q Before you had the chemotherapy, did you  
9 discuss the risks with a doctor?

10 A Yes, I did.

11 Q Which doctor was that?

12 A Dr. Nichols.

13 Q Where is he?

14 A Missoula.

15 Q What's your understanding of the risks of  
16 chemotherapy?

17 MR. GRAHAM: Objection, seeks hearsay  
18 testimony. Go ahead.

19 THE DEPONENT: There are some risks  
20 with any medication, but the risk is less than the  
21 possibility of help. And he did say that it wasn't  
22 a sure thing, but it was the best thing at the  
23 time. Because I had been advised that radiation,  
24 due to the proximity of the cancer in relation to my  
25 heart, would cook my heart. If they gave me enough

Arrowwood  
obj: H

Libby

Arrowood  
obj: F

1 to do any good, it would cook my heart. And without  
2 enough, it wouldn't help.

3 And then I was advised by Dr. Goodman in  
4 Kalispell that the regular chemo had a bad track  
5 record. It wouldn't work. And after that is when I  
6 went to Dr. Nichols.

7 BY MR. HEBERLING:

8 Q What kind of doctor is Dr. Nichols?

9 A He's an oncologist.

10 Q Is that a cancer doctor?

11 A Yes.

12 Q What's your understanding about whether or  
13 not there is any cure for mesothelioma?

14 MR. GRAHAM: Objection, calls for a  
15 hearsay answer.

16 THE DEPONENT: He advised me that  
17 there is no cure. That it can be slowed down, but  
18 so far there is no cure.

19 BY MR. HEBERLING:

20 Q So after the first chemotherapy treatment,  
21 did you have a blood test?

22 A Yes, two weeks later. That was done at  
23 the Libby hospital and the results were faxed in to  
24 Dr. Nichols. Then, prior to the next chemotherapy,  
25 I had another blood test and an x-ray to see what --

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1 That's the ore bins. And there is a -- it's part of  
2 the mountain that goes up. Well, when it went into  
3 the mountain, then it just sort of turned and  
4 swirled around.

5 Q The dust?

6 A Yeah.

7 Q Could you see dust coming out the end of  
8 the horizontal stack?

9 A Oh, yeah. Yeah. Then after, I guess  
10 four, five years, they put on this stack  
11 (indicating). And it's -- pushed the air straight  
12 in the air. If there was no wind at all, it would  
13 go straight up for a ways and just mushroom out and  
14 it would look like a blast from an atomic bomb.

15 Q And after the stack -- the vertical stack  
16 was added, did you have less dust in the area of the  
17 garage?

18 A Yes.

19 Q Did you still have dust from the dry mill  
20 in the area of the garage?

21 A Well, yeah, it would -- it would come  
22 down, but it wasn't anything like it was before  
23 where it was just, you know, plumes of dust.

Libby

24 Q Okay. Then in the '60s, did you ever  
25 discuss the dust with mine superintendent Orville



Libby

1 Thorn?  
2 A I don't think I ever did discuss dust with  
3 him.  
4 Q Did you ever discuss the dust with Earl  
5 Lovick?  
6 A No.  
7 Q Did the company ever tell you it was just  
8 nuisance dust?  
9 A That's what Kujawa told me.  
10 Q Okay. Now, who was Mr. Kujawa?  
11 A I believe he was second in command at the  
12 mine.  
13 Q And what was his field of expertise?  
14 A Well, he was a geologist.  
15 Q Did you have a particular conversation  
16 with him?  
17 A Well, I was in the warehouse. He was a  
18 very sociable person. I was in the warehouse and I  
19 think it might have been a dusty day when there was  
20 a lot of dust around. I mentioned something about  
21 it being very dusty. And he told me that, It's just  
22 nuisance dust. Won't harm you. He said, you could  
23 eat a ton of this and it wouldn't hurt you.  
24 Q Can you say when this conversation  
25 occurred? What decade anyway?

Libby

1 A I think possibly the late '60s, maybe  
2 early '70s. Sometime in there.

3 Q Is that probably when it was?

4 A I think it was.

5 Q And why were you in the warehouse?

6 A The warehouse is where you obtain parts  
7 for anything. Or if you needed a pair of gloves or  
8 a flashlight.

9 Q Did you go there to meet Mr. Kujawa?

10 A No, he just happened to be there.

11 MR. HEBERLING: We're out of tape, so  
12 we will stop and change tapes.

13 THE VIDEOGRAPHER: This will be the  
14 end of tape number 1.

15 (A recess was held in the proceedings.)

16 MR. HEBERLING: We're back on the  
17 record.

18

19 EXAMINATION CONTINUED

20 BY MR. HEBERLING:

21 Q Did you ever discuss the dust with Walt  
22 Baker?

23 A I had a short conversation with him one  
24 time.

25 Q What position was he in?

Libby

- 1 A He was foreman in the wet mill.
- 2 Q And when did this conversation take
- 3 place? What decade, anyway?
- 4 A I think it was late '60s.
- 5 Q And what happened?
- 6 A I was talking about all this dust around
- 7 and he told me it was just nuisance dust. It wasn't
- 8 dangerous.
- 9 Q Anything else you recall about that
- 10 conversation?
- 11 A No. I only talked to Walt, you know, just
- 12 sort of passing, few words here, Hi, how are you,
- 13 and so on.
- 14 Q Did you ever discuss the dust with plant
- 15 manager Bob Oliverio in the '70s?
- 16 A I think I talked to him some. He told me
- 17 that that's the reason they were getting the new
- 18 mill in, was to alleviate the dust. But, that was
- 19 about the conversation. I talked to him about other
- 20 things, but, you know, regarding dust, I never did.
- 21 Q Was there a time in the garage -- Let's
- 22 see. Strike that.
- 23 Who was the supervisor in the garage in
- 24 the '70s?
- 25 A Lloyd Fiscus.